

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR: 7205
DATE COMPLAINT FILED: 12/02/2016
DATE OF NOTIFICATION: 12/09/2016
LAST RESPONSE RECEIVED: N/A
DATE ACTIVATED: 05/03/2017

ELECTION CYCLE: 2016
EXPIRATION OF SOL: 11/15/2021 – 12/13/2021

COMPLAINANTS: Phillip Wiglesworth
Amy Rebecca James

RESPONDENTS: Jill Stein for President and Steven Welzer in
his official capacity as treasurer

**RELEVANT STATUTES
AND REGULATIONS:** 52 U.S.C. § 30121(a)(2)
11 C.F.R. § 100.91
11 C.F.R. § 100.151

INTERNAL REPORTS CHECKED: Disclosure Reports

AGENCIES CHECKED: None

I. INTRODUCTION

The Complaint alleges that Jill Stein for President (“JSP”) violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by accepting foreign national donations in connection with its recount efforts following the 2016 presidential election. Based on the available information, we recommend that the Commission dismiss the Complaint and close the file in this matter.

II. FACTUAL BACKGROUND

Jill Stein was the Green Party’s candidate for President of the United States during the 2016 general election.¹ After the election, Stein announced her intention to challenge the

¹ See FEC Form 2, Statement of Candidacy, Jill Stein (July 9, 2015).

1 presidential election results in Wisconsin, Michigan, and Pennsylvania.² JSP subsequently
2 began raising money to effectuate the recounts, and ultimately raised more than \$7,000,000 for
3 the recount effort.³ JSP filed a recount petition with the Wisconsin Election Commission, and a
4 recount was conducted in that state.⁴ Although JSP attempted to have recounts conducted in
5 Pennsylvania and Michigan, both of these attempted recounts were stopped by judicial order.⁵

6 The Complaint alleges that an unknown number of donors to JSP's recount fund were
7 foreign nationals.⁶ In support, the Complaint notes that the JSP website permitted donors to
8 announce their donation through various social media platforms, including Twitter, and asserts
9 that several Twitter users who announced their donations appear to not be U.S. citizens.⁷ The
10 Complaint provides a 116-page exhibit (the "Exhibit") consisting of screenshots of tweets from
11 45 Twitter users who apparently donated to the recount effort.⁸ Each tweet states "I just donated
12 to #Recount2016 and to help ensure election integrity. Join me."⁹ Most of the 45 Twitter users

² See Compl. at 5; see also *Greens Demand Recounts in Wisconsin, Michigan, and Pennsylvania*, http://www.jill2016.com/greens_demand_recounts (last visited Feb. 27, 2018) ("*Greens Demand Recounts*, www.jill2016.com").

³ See 2016 Year-End Report, Jill Stein for President (Feb. 1, 2017); see also *Greens Demand Recounts*, www.jill2016.com ("We need your help to make sure your votes were counted accurately on Election Day. Please donate now to help maintain integrity in our elections. This effort to ensure election integrity is in your hands! In true grassroots fashion, we're turning to you, the people, and not big-money corporate donors to make this happen.")

⁴ See *Jill Stein Files Recount Petition in Wisconsin* (Nov. 25, 2016), <http://www.jill2016.com/recountfilingwi>. JSP disclosed a \$3,499,689 recount filing fee paid to Wisconsin on November 29, 2016. See 2016 Year-End Report at 298, Jill Stein for President. A separate Complaint alleges that Stein's recount effort resulted in excessive, in-kind contributions to Hillary for America ("HFA"), that HFA accepted these contributions by coordinating with JSP, and that donors to JSP for the recount who also contributed to HFA may have made excessive contributions to HFA. See MUR 7202, Compl. at 1-4.

⁵ See *Stein v. Cortes*, 223 F. Supp. 3d 423, 426 (E.D. Pa. 2016); *Attorney Gen. v. Bd. of State Canvassers*, 318 Mich. App. 242, appeal withdrawn, 500 Mich. 907, 887 N.W.2d 785 (2016).

⁶ Compl. at 5-7.

⁷ *Id.*

⁸ *Id.*, Ex. A. The Office of General Counsel has compiled an attachment to this report that summarizes the most relevant information from the Exhibit. See Attach. 1.

⁹ See, e.g., Compl. at 13, 16, & 18.

1 included in the Exhibit entered a foreign location in the optional "Location" field in their Twitter
2 profiles, which the Complaint cites as evidence that the apparent donors may be foreign
3 nationals.¹⁰ The Exhibit also includes, for some of the 45 Twitter users, screenshots and
4 printouts of other tweets or other websites linked from their Twitter profiles that show purported
5 foreign activity or residence in support of the allegation that they may not be U.S. citizens.¹¹
6 The Complaint acknowledges that some of the Twitter users included in the Exhibit might be
7 U.S. citizens, but also notes that not all donors may have used JSP's web tool to announce their
8 donations on Twitter.¹²

9 A review of the archived version of JSP's website shows that its donation page did not
10 mention the prohibition on foreign national contributions.¹³ JSP's current donation page requires
11 certain identifying information, such as address, from all contributors.¹⁴

12 JSP did not respond to the Complaint.

13 III. LEGAL ANALYSIS

14 The Act and Commission regulations prohibit a foreign national from making a
15 contribution or donation, directly or indirectly, in connection with a federal, state, or local
16 election.¹⁵ A "foreign national" includes an individual who is not a citizen of the United States

¹⁰ *Id.*; see also Attach. 1.

¹¹ Compl., Ex. A.

¹² *Id.* at 5-7.

¹³ See *Jill 2016 (Donate)*, <https://web.archive.org/web/20170717144019/https://jillstein.nationbuilder.com/donate> (archived version from Nov. 22, 2016).

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¹⁵ 52 U.S.C. § 30121(a)(1)(A); 11 C.F.R. § 110.20(b).

1 or a national of the United States and who is not lawfully admitted for permanent residence.¹⁶

2 The Act further prohibits persons from soliciting, accepting, or receiving a contribution or
3 donation from a foreign national.¹⁷ The foreign national prohibition applies to funds that are
4 raised in connection with a recount.¹⁸

5 The Complaint, in support of its allegation that JSP accepted foreign national donations,
6 provided various screenshots of Twitter profiles and tweets for individuals who claimed to have
7 donated to JSP for the recount.¹⁹ Most of the profiles appear to indicate that the user is located
8 outside the United States.²⁰ At least one of the profiles of a purported JSP donor expressly states
9 that the user is not a United States citizen: the Twitter biography for user @MaxWrite states that
10 Max is Canadian.²¹ Further, in response to @MaxWrite's tweet about donating to JSP's recount
11 effort, the following exchange occurred between @MaxWrite and another Twitter user:

12 @harleytime1: Are you even an American citizen?

13 @MaxWrite: Nope . . . Doesn't mean I shouldn't lend a hand.²²
14

¹⁶ 52 U.S.C. § 30121(b)(2). The term "foreign national" also includes "a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country." 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b).

¹⁷ 52 U.S.C. § 30121(a)(2). The Commission's regulations employ a "knowingly" standard here. 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited foreign national contribution or donation if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the funds originated from a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the funds originated from a foreign national but failed to conduct a reasonable inquiry. 11 C.F.R. § 110.20(a)(4).

¹⁸ See 11 C.F.R. §§ 100.91, 100.151 (exempting funds raised during a recount from the definitions of "contribution" and "expenditure," respectively, but noting that 11 C.F.R. § 110.20, the foreign national prohibition, shall apply); Advisory Op. 2006-24 (NRSC & DSCC) at 5.

¹⁹ Compl., Ex. A.

²⁰ *Id.*; see also Attach. 1.

²¹ Compl. at 12.

²² *Id.* at 14.

1 Information concerning a few of the other purported donors suggests that the individual is
2 a foreign national. For example, the Exhibit contains screenshots of Twitter user Khanh Trieu's
3 tweet announcing a donation to JSP, Trieu's Twitter profile linking to an IMDb profile page at a
4 Montenegro domain, and the IMDb page.²³ According to the linked IMDb profile, most of
5 Trieu's biographical information and film work, dating back to when Trieu was six years old,
6 relate to the country of Australia, but neither the Twitter profile nor the IMDb profile indicates
7 Trieu's country of birth or nationality.²⁴ Similarly, the Exhibit contains screenshots of Twitter
8 user Carl Robinson's tweet announcing a donation to JSP, and a cached version of Robinson's
9 Twitter profile shows a "Paris, France" location.²⁵ Robinson's current Twitter profile contains a
10 link to a LinkedIn profile, which indicates that all of Robinson's educational and work
11 experience, dating back to public school graduation in 1998, took place in either the United
12 Kingdom, France, or China; Robinson's work history includes founding a language school in
13 Beijing in which "[a]ll our teachers were native speakers from the United Kingdom."²⁶ Neither
14 Robinson's Twitter profile nor LinkedIn profile indicates country of birth or nationality.
15 Likewise, the Exhibit contains a screenshot of Twitter user Shabbir Hussain's profile showing a
16 tweet announcing a donation to JSP, a "Karachi" location, and a link to Hussain's Facebook

²³ *Id.* at 15 (showing Trieu's Twitter profile link to [imdb me/khanhtrieu](https://www.imdb.me/khanhtrieu)); *see also Go Daddy (About .me Domains)*, <https://www.godaddy.com/help/about-me-domains-4409> (last visited Feb. 26, 2018) (describing the .me domain as a top level domain available to anyone that represents both Montenegro and you). Trieu's IMDb.me link is still in the Twitter profile and automatically redirects to IMDb.com, which describes itself as "the world's most popular and authoritative source for movie, TV and celebrity content." *About IMDb.com*, http://www.imdb.com/pressroom/?ref_=ft_pr (last visited Feb. 26, 2018).

²⁴ Compl. at 17. Other IMDb profiles contain the actor's birthplace and citizenship. *See generally IMDb (Daniel Day-Lewis: Biography)*, http://www.imdb.com/name/nm0000358/bio?ref_=nm_ov_bio_sm (last visited Feb. 26, 2018) (noting Day-Lewis's English birthplace and Irish citizenship).

²⁵ *See* Compl. at 50.

²⁶ *See Carl Robinson (2018) LinkedIn profile*, <https://www.linkedin.com/in/carlrobinson/> (last visited Feb. 27, 2018).

1 page.²⁷ The Exhibit also includes a screenshot of Hussain's Facebook profile indicating
2 hometown, current city, and educational experience all located in Pakistan.²⁸ Neither Hussain's
3 Twitter profile nor Facebook profile indicates country of birth or nationality.

4 The available information also suggests, however, that some of the apparent donors
5 included in the Exhibit are U.S. citizens. For example, the Exhibit includes screenshots of
6 Twitter user Jillian's tweet announcing a donation to JSP, Twitter profile containing a biography
7 describing herself as a "Minneapolis girl lost somewhere in Scotland-land" and a link to her
8 Instagram page, and the Instagram page describing herself as a "Minnesota girl lost somewhere
9 in Scotland."²⁹ Similarly, the Exhibit includes screenshots of Twitter user Nicole Thomas
10 Wyeth's tweet announcing a donation to JSP, Twitter profile showing a "Folkstone, England"
11 location, and biography description as an "American with British soul & sense of humour. . . ."³⁰
12 The Exhibit also includes screenshots of Twitter user Lynn Morrison's tweet announcing a
13 donation to JSP, Twitter profile with a link to her webpage, and a screenshot of that webpage.³¹
14 The About Me section of that webpage describes her as an "American raising two prim
15 princesses with her obnoxiously skinny Italian husband in Oxford, England."³²

16 JSP's disclosure reports do not show any itemized donations or contributions from any of
17 the names that are discernible from the Twitter profiles included in the Exhibit. Thus, while the
18 available information provides a reasonable inference that a small number of the 45 Twitter users

²⁷ See Compl. at 62.

²⁸ See *id.* at 64.

²⁹ *Id.* at 22.

³⁰ *Id.* at 25-26.

³¹ *Id.* at 70-72.

³² Lynn Morrison, *The Nomad Mom Diary (About Me)*, <http://nomadmomdiary.com/lynn-morrison/> (last visited Feb. 26, 2018).

1 are foreign nationals, while also providing an inference that others are United States citizens, the
2 only information suggesting that the users donated to the recount fund are the user's tweets.
3 Further, the Complaint's allegations of foreign national interference do not contemplate
4 safeguards JSP may have implemented to identify potential foreign national contributions.
5 Though we do not know what, if any, specific safeguards JSP may have had in place, it appears
6 that JSP's current donation page requests identifying information, including address, from
7 contributors, which would have allowed JSP to identify potential foreign national donations.

8 The information shows that only a small number of the identified Twitter users may be
9 foreign nationals and JSP's disclosure reports do not show donations or contributions from the
10 names that are discernible from the Twitter profiles, suggesting that any donations may have
11 been below the \$200 itemization threshold.³³ Thus it appears that if any of these individual were
12 foreign nationals and they actually donated to the recount fund, those donations were likely *de*
13 *minimis*. In light of these circumstances, we do not believe that an investigation of the
14 Complaint's allegations would be a prudent use of the Commission's limited resources.

15 Accordingly, we recommend that the Commission exercise its prosecutorial discretion
16 and dismiss the allegation that Jill Stein for President and Steven Welzer in his official capacity
17 as treasurer violated 52 U.S.C. § 30121(b)(2) and close the file in this matter.³⁴

18 IV. RECOMMENDATIONS

- 19
20 1. Dismiss the allegations that Jill Stein for President and Steven Welzer in his
21 official capacity as treasurer violated 52 U.S.C. § 30121(b)(2);
22
- 23 2. Approve the attached Factual and Legal Analysis;
24
- 25 3. Approve the appropriate letters; and
26
27

³³ See 52 U.S.C. § 30104(b)(3)(A).

³⁴ See *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

4. Close the file.

Lisa J. Stevenson
Acting General Counsel

3/2/18
Date

Kathleen M. Guith
Kathleen M. Guith
Associate General Counsel for Enforcement

Mark Allen
Mark Allen
Assistant General Counsel

Christopher L. Edwards
Christopher L. Edwards
Attorney

Attachments:

(1) OGC Chart Summarizing Information in Complainant's Exhibit A

MUR 7205 – Summary of Information in Complainant's Exhibit A

Twitter Profile Name and Handle	Location ¹	Additional Relevant Information
"Max" "@MaxWrite"	Toronto, Canada	Twitter biography describes her as Canadian. The Exhibit also contains a tweet from another user saying "[a]re you even an American citizen?" @MaxWrite responds by saying "[n]ope . . . Doesn't mean I shouldn't lend a hand."
"Khanh Trieu" "@khanhtrieu"	Sydney	The Exhibit contains his IMDb ² profile page, which lists biographical information relating to Australia and his work on Australian films/television shows.
"Mr. P" "@MrPoli80"	La Herradura, Huixquilucan	N/A
"Pinky,RunLaughEatPie" "@pinkypie"	Arnhem, the Netherlands	Twitter biography says "#english # nederlands #US #NL # expat. . . ."
"Jillian" "@Jillian"	Edinburgh, Scotland	Twitter biography says "Minneapolis girl lost somewhere in Scotland. . . ." Also provides screenshot from her Instagram account which says "Minnesota girl lost somewhere in Scotland. . . ."
"Nicole Thomas Wyeth" "@8amNoCoffee"	Folkestone, England	Twitter biography says "American with British soul and sense of humour. . . ."
"katycat" "@_jobsperry"	Brazil	In response to her tweet that she donated to JSP's recount fund, another user tweeted to her "why do you care how our elections are conducted? And who are you to say that they are not held with integrity?"
"Alexandra Fresch" "@afresch"	Guelph, ON	N/A
"mugoya mahd" "@mugmahd"	Dubai, United Arab Emirates	In response to his tweet that he donated to JSP's recount fund, another user tweeted to him "that's against American law isn't it?"
"ryc" "@lightboxgallery"	Toroncouver	N/A
"Stacie Hood" "@staciehood"	Cayman Islands	N/A
"eliza moore" "@elizamoore"	Montreal	N/A
"Amanda Mesaikos" "@amandamesaikos"	London	N/A
"Ibracadabra" "@IBRAAdrago"	Mexico	N/A
"Rachel Linn" "@rachellinn"	London	Twitter biography indicates she is in "London via Cambridge via California."

¹ As displayed on subject Twitter profile.

² IMDb.com is a website that provides biographical information for individuals in the film/television industry. Khanh Trieu appears to work as an actor.

Twitter Profile Name and Handle	Location	Additional Relevant Information
"Benny Kaufman" "@Benny_Kaufman"	Democratic Republic of Congo	N/A
"yankinyoukay" "@yankinyoukay"	London, England	N/A
"Carl Robinson" "@_carlrobinson"	Paris, France	Current Twitter profile provides a link to his LinkedIn profile page, which indicates that all of his work and educational experience, dating back to 1998, took place either in the United Kingdom, France, or China; Robinson's work history includes founding a language school in Beijing in which "[a]ll our teachers were native speakers from the United Kingdom."
"Thomas Lienart" "@thewildcat22"	N/A	The Exhibit includes a screenshot from the webpage of the web design agency that he works for, which is written in French.
"Jason the Earthquake" "@nowasforjason"	Morlya, Japan	N/A
"Jo" "@deepestblueseas"	London	N/A
"Colby Benari" "@cbenari"	London, England	Her tweet that she donated to JSP's recount fund is specifically directed to U.S. citizens. In response to her tweet that she donated to JSP's recount fund, another user tweeted to her "Thanks! You just made it even easier to send @DrJillStein to prison for violating @FEC election laws on accepting foreign \$!"
"Shabbir Hussain" "@networkerspro"	Karachi	In response to his tweet that he donated to JSP's recount fund, multiple individuals tweeted to him and suggested that he was not a U.S. citizen. The Exhibit also includes a link to his Facebook page, which says that his current city and hometown are both in Pakistan.
"Aileen Payumo" "@aileenpayumo"	Manila, Philippines	Twitter biography describes her as a "[r]epatriate of the Philippines."
"Thomas C. King" "@Thomas_C_King"	Lancaster, England	The Exhibit includes a printout of his personal webpage, which indicates he is a researcher at Lancaster University.
"Lynn Morrison" "@NomadMomDiary"	Oxford, UK	The Exhibit includes a printout of her personal webpage, which describes her as a "smart-ass American raising two prim princesses with her obnoxiously skinny Italian husband in Oxford, England."
"Sean Lim" "@theseoulite"	N/A	In response to his tweet that he donated to JSP's recount fund, another user tweeted to him "[w]hy is Korea donating \$ to #recount2016! More foreign funds!" In response, Lim tweets "don't be a troll gigi. I am an overseas U.S. voter. Are you a Russian

Twitter Profile Name and Handle	Location	Additional Relevant Information
		operative? @CIA plz investigate.”
“Tom Torsney-Weir” “@gabysbrain”	Vienna, Austria	Twitter biography states that he studies at the University of Vienna.
“HB” “@heidicando”	Canada	In response to his tweet that he donated to JSP’s recount fund, another user tweeted to him “[i]f you are for #ElectionIntegrity are you also for ensuring that only #American citizens eligible to vote can do so? #VoterID.” In response, he tweeted “of course!”
“[Twitter profile name not in English letters]” “@symptia”	Casablanca	The Exhibit includes a screenshot of her LinkedIn profile, which references several foreign institutions.
“Ray of Chinarabia” “@RayofChinarabia”	N/A	A snapshot of his website, which appears to focus on China, is included with the Exhibit. That website describes him with the following: “[I]ong story short, raised in America from the Midwest to the West Coast on a starchy diet of movies and comics and science fiction paperbacks. There’s a Mid-East connection in there too . . . Lived in Shenzhen, China, since 2008. . . .”
“Roxana Mullaf” “@roxmilz”	Jordan	N/A
“Davida Chazan” “@ChocolateLady57”	Jerusalem, Israel	The Exhibit provides a screenshot from her book review website, which states that she is originally from Evanston, Illinois, and moved to Israel at the age of 21.
“Michelle Medeiros” “@Tapaut”	Amsterdam	N/A
“Star624” “@Star624”	South East, England	N/A
“Jillian Schedneck” “@JSchedneck”	Adelaide, South Australia	The Exhibit provides a screenshot from her travel website, which references time spent both in the U.S. and overseas.
“Lowsy” “@Nazgullow”	New Zealand	N/A
“Alyssa Bradac” “@ADBradac”	Calgary, Canada	N/A
“Stacey DeAmicis” “@ukadventuregurl”	Plymouth, UK	N/A
“viviana narotzky” “@vnarotzky”	Mostly Europe	The Exhibit includes a screenshot of her LinkedIn profile, which references work with foreign institutions.

Twitter Profile Name and Handle	Location	Additional Relevant Information
"Chris Brody" "@cbrody"	London	The Exhibit includes a screenshot to his website, which indicates that he runs a South-London based IT consultancy.
"Gabriela Sosa" "@gabrielasosa"	Vancouver, B.C., Canada	N/A
"Natasha M Drissi" "@yakusoku"	N/A	Twitter profile indicates she is a PhD student at the University of Linkoping in Sweden.
"Ann Aguirre" "@MsAnnAguirre"	Sayavedra, Mexico	N/A
"Jesse Pinho" "@jessepinho"	Berlin, Germany	N/A

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Jill Stein for President and Steven Welzer in MUR 7205
his official capacity as treasurer

I. INTRODUCTION

The Complaint alleges that Jill Stein for President ("JSP") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by accepting foreign national donations in connection with its recount efforts following the 2016 presidential election.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Jill Stein was the Green Party's candidate for President of the United States during the 2016 general election.¹ After the election, Stein announced her intention to challenge the presidential election results in Wisconsin, Michigan, and Pennsylvania.² JSP subsequently began raising money to effectuate the recounts, and ultimately raised more than \$7,000,000 for the recount effort.³ JSP filed a recount petition with the Wisconsin Election Commission, and a recount was conducted in that state.⁴

¹ See FEC Form 2, Statement of Candidacy, Jill Stein (July 9, 2015).

² See Compl. at 5; see also *Greens Demand Recounts in Wisconsin, Michigan, and Pennsylvania*, http://www.jill2016.com/greens_demand_recounts (last visited Feb. 27, 2018) ("*Greens Demand Recounts*, www.jill2016.com").

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⁴ See *Jill Stein Files Recount Petition in Wisconsin* (Nov. 25, 2016), <http://www.jill2016.com/recountfilingwi>. JSP disclosed a \$3,499,689 recount filing fee paid to Wisconsin on November 29, 2016. See 2016 Year-End Report at 298, Jill Stein for President.

1 The Complaint alleges that an unknown number of donors to JSP's recount fund were
2 foreign nationals.⁵ In support, the Complaint notes that the JSP website permitted donors to
3 announce their donation through various social media platforms, including Twitter, and asserts
4 that several Twitter users who announced their donations appear to not be U.S. citizens.⁶ The
5 Complaint provides a 116-page exhibit (the "Exhibit") consisting of screenshots of tweets from
6 45 Twitter users who apparently donated to the recount effort.⁷ Each tweet states "I just donated
7 to #Recount2016 and to help ensure election integrity. Join me."⁸ Most of the 45 Twitter users
8 included in the Exhibit entered a foreign location in the optional "Location" field in their Twitter
9 profiles, which the Complaint cites as evidence that the apparent donors may be foreign
10 nationals.⁹ The Exhibit also includes, for some of the 45 Twitter users, screenshots and printouts
11 of other tweets or other websites linked from their Twitter profiles that show purported foreign
12 activity or residence in support of the allegation that they may not be U.S. citizens.¹⁰ The
13 Complaint acknowledges that some of the Twitter users included in the Exhibit might be U.S.
14 citizens, but also notes that not all donors may have used JSP's web tool to announce their
15 donations on Twitter.¹¹

⁵ Compl. at 5-7.

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1 A review of the archived version of JSP's website shows that its donation page did not
2 mention the prohibition on foreign national contributions.¹² JSP's current donation page requires
3 certain identifying information, such as address, from all contributors.¹³

4 JSP did not respond to the Complaint.

5 B. Legal Analysis

6 The Act and Commission regulations prohibit a foreign national from making a
7 contribution or donation, directly or indirectly, in connection with a federal, state, or local
8 election.¹⁴ A "foreign national" includes an individual who is not a citizen of the United States
9 or a national of the United States and who is not lawfully admitted for permanent residence.¹⁵
10 The Act further prohibits persons from soliciting, accepting, or receiving a contribution or
11 donation from a foreign national.¹⁶ The foreign national prohibition applies to funds that are
12 raised in connection with a recount.¹⁷

¹² See *Jill 2016 (Donate)*, <https://web.archive.org/web/20170717144019/https://jillstein.nationbuilder.com/donate> (archived version from Nov. 22, 2016).

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¹⁷ See 11 C.F.R. §§ 100.91, 100.151 (exempting funds raised during a recount from the definitions of "contribution" and "expenditure," respectively, but noting that 11 C.F.R. § 110.20, the foreign national prohibition, shall apply); Advisory Op. 2006-24 (NRSC & DSCC) at 5.

1 The Complaint, in support of its allegation that JSP accepted foreign national donations,
2 provided various screenshots of Twitter profiles and tweets for individuals who claimed to have
3 donated to JSP for the recount.¹⁸ Most of the profiles appear to indicate that the user is located
4 outside the United States.¹⁹ At least one of the profiles of a purported JSP donor expressly states
5 that the user is not a United States citizen: the Twitter biography for user @MaxWrite states that
6 Max is Canadian.²⁰ Information concerning a few of the other purported donors suggests that
7 they are foreign nationals, while some of the apparent donors included in the Exhibit are U.S.
8 citizens.

9 JSP's disclosure reports do not show any itemized donations or contributions from any of
10 the names that are discernible from the Twitter profiles included in the Exhibit. Thus, while the
11 available information provides a reasonable inference that a small number of the 45 Twitter users
12 are foreign nationals, while also providing an inference that others are United States citizens, the
13 only information suggesting that the users donated to the recount fund are the user's tweets.
14 Further, the Complaint's allegations of foreign national interference do not contemplate
15 safeguards JSP may have implemented to identify potential foreign national contributions.
16 Though we do not know what, if any, specific safeguards JSP may have had in place, it appears
17 that JSP's current donation page requests identifying information, including address, from
18 contributors, which would have allowed JSP to identify potential foreign national donations.

¹⁸ Compl., Ex. A.

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1 The information shows that only a small number of the identified Twitter users may be
2 foreign nationals and JSP's disclosure reports do not show donations or contributions from the
3 names that are discernible from the Twitter profiles, suggesting that any donations may have
4 been below the \$200 itemization threshold.²¹ Thus it appears that if any of these individuals
5 were foreign nationals and they actually donated to the recount fund, those donations were likely
6 *de minimis*. In light of these circumstances, the Commission does not believe that an
7 investigation of the Complaint's allegations would be a prudent use of the Commission's limited
8 resources.

9 Accordingly, the Commission exercises its prosecutorial discretion and dismisses the
10 allegation that Jill Stein for President and Steven Welzer in his official capacity as treasurer
11 violated 52 U.S.C. § 30121(b)(2) and close the file in this matter.²²

²¹ See 52 U.S.C. § 30104(b)(3)(A).

²² See *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).